



OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN

GERALD C. MANN
ATTORNEY GENERAL

Honorable George P. Hudson
County Attorney
Jones County
Anson, Texas

Dear Sir:

Opinion No. 0-3472
Re: Application of the
nepotism statute--
Art. 432, P. C. to
relationship between
school trustee and
(1) brother-in-law of
deceased wife and (2)
nephew of his wife.

We have considered the two questions propounded in
your letter of April 25, 1941, as follows:

"In one of our independent school dis-
tricts we have the following situation:

"A (trustee) married B
C (employee) married D
B and D are sisters, and B the former
wife of A the trustee has been dead for sev-
eral years.

"Now, are A and C so related that if one
of them were trustee and the other an applicant
for employment that the applicant could not be
employed by the other.

"In the same district we also have the fol-
lowing situation:

"A (trustee) married B
B is a sister to C
D is a son of C
C has been dead for 25 yrs.

Honorable George P. Hudson, Page 2

"Are A and D so related that D could not be employed by the trustees with A as a trustee."

Your two questions may be restated in the following language:

1. May a school trustee employ the husband of his deceased wife's sister?
2. May a school trustee employ the nephew of his wife?

In Opinion No. O-2225, copy of which is enclosed herewith, we reviewed all the available authorities on the subject and concluded that under the Texas rule, a person is related by affinity to the affinities of the spouse. Applying this rule to your first question, it is apparent that if his wife (B) were still living, the trustee (A) would be related to the proposed employee, (C), within the degree of affinity prohibited by Article 432 of the Penal Code of Texas. Under the authorities cited in our Opinion No. O-1257, copy of which is enclosed, the relationship by affinity between (A) and (C) would continue upon the death of the wife, (B), only if issue of this marriage survive. You do not state whether issue of (A) and (B) are living, so that we must answer your first question in the alternative. The employment of (C) is prohibited if there are issue living of the marriage of (A) and (B), but it is not prohibited if there are no such issue.

Turning, now to your second question, (D) is related to (B) in the second degree of consanguinity, and to (A) in the second degree of affinity. The death of (C) did not affect the relationship because the blood relationship between (B) and (D) cannot be affected by the death of intermediate kin. Consequently, (D) is related to (A) within a degree of relationship forbidden by Article 432, Penal Code of Texas, 1925.

APPROVED MAY 8, 1941

George P. Hudson
FIRST ASSISTANT
ATTORNEY GENERAL

WRK:RS

ENCLOSURES

Yours very truly

ATTORNEY GENERAL OF TEXAS

By *Walter R. Koch*
Walter R. Koch
Assistant

